



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: SCOTT JOHNSON ET AL.

Filed: June 12, 2001

For: SYSTEMS AND METHODS FOR MANAGING  
DIFFERENTIATED SERVICE IN INFORMATION  
MANAGEMENT ENVIRONMENTS

Serial No.: 09/879,811

Group Art Unit: UNKNOWN

Examiner: UNKNOWN

Atty Dkt: SURG:148

Pursuant to 37 CFR 1.8, I hereby certify that this paper or fee is being deposited with the United States Postal Service in a first class, postage prepaid envelope on the date indicated below and is addressed to: Assistant Commissioner of Patents, Washington, D.C. 20231.

10-11-01

Date

*Diane C Potts*

Name

Assistant Commissioner For Patents  
Washington, D.C. 20231

**ELECTION UNDER 37 C.F.R. §§3.71 AND STATEMENT UNDER 3.73  
AND POWER OF ATTORNEY**

Sir:

The undersigned being Assignee of record of the entire interest in the above-identified application by virtue of an assignment that has been filed in the United States Patent and Trademark Office as set forth below, hereby elects, under 37 C.F.R. §3.71, to prosecute the application to the exclusion of the inventor. A statement under 37 C.F.R. 3.73(b) is also included below.

The Assignee hereby revokes any previous Powers of Attorney and appoints Robert M. O'Keefe, Reg. No. 35,630; Richard D. Egan, Reg. No. 36,788; Brian W. Peterman, Reg. No. 37,908, William W. Enders, Reg. No. 41,735, and Maximilian R. Peterson, Reg. No. 46,469, each an attorney of the firm of O'KEEFE, EGAN & PETERMAN, LLP, as its attorney for so long as they remain with such firm, with full power of substitution and revocation, to prosecute the application, to make alterations and amendments therein, to transact all business in the Patent

and Trademark Office in connection therewith, and to receive any Letters Patent, and for one year after issuance of such Letters Patent to file any request for a certificate of correction that may be deemed appropriate.

Pursuant to 37 C.F.R. §3.73, the undersigned has reviewed the evidentiary documents, specifically the Assignment to *Surgient Networks, Inc.*, referenced below, and certifies that to the best of my knowledge and belief, title remains in the name of the Assignee.

Pursuant to 37 C.F.R. §3.73(b), *Surgient Networks, Inc.*, a corporation, states that it is the assignee of the entire, right, and interest in the patent application identified above by virtue of an assignment from the inventor(s) of the patent application identified above. The assignment has been filed in the United States Patent and Trademark Office as set forth below.

Please direct all communications as follows:

***William W. Enders***  
O'KEEFE, EGAN & PETERMAN, LLP  
1101 Capital of Texas Highway South  
Building C, Suite 200  
Austin, Texas 78746  
512/347-1611  
FAX 512/347-1615

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

ASSIGNEE:

***SURGIENT NETWORKS, INC.***

By:   
Name: Scott C. Johnson  
Title: Chief Technical Officer

Date: 9-5-2001

ASSIGNMENT:

- ☒ Filed concurrently herewith (copy enclosed)
- ☐ Previously filed [date](copy enclosed)
- ☐ Previously recorded

Date: \_\_\_\_\_

Reel: \_\_\_\_\_

Frame: \_\_\_\_\_

## ASSIGNMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt, sufficiency and adequacy of which are hereby acknowledged, the undersigned, do hereby:

SELL, ASSIGN AND TRANSFER to Surgient Networks, Inc. (the "Assignee"), being incorporated under the laws of the State of Delaware, having a place of business 8303 North Mopac, Suite C-300, Austin, Texas 78759-8374, the entire right, title and interest for the United States and all foreign countries in and to (1) any and all improvements which are disclosed in the application for United States Letters Patent, Serial No. 09/879,811 which has been filed on June 12, 2001 and is entitled "SYSTEMS AND METHODS FOR MANAGING DIFFERENTIATED SERVICE IN INFORMATION MANAGEMENT ENVIRONMENTS," (2) such application and all divisional, continuing, continuation-in-part, substitute, renewal, reissue and all other applications for patent which have been or shall be filed in the United States and all foreign countries on any of such improvements; and (3) any and all original and reissued patents which have been or shall be issued in the United States and all foreign countries on such improvements; and specifically including the right to file foreign applications under the provisions of any convention or treaty and claim priority based on such applications in the United States;

AUTHORIZE AND REQUEST the issuing authority to issue any and all United States and foreign patents granted on such improvements to the Assignee;

WARRANT AND COVENANT that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been or will be made to others by the undersigned, and that the full right to convey the same as herein expressed is possessed by the undersigned;

COVENANT, when requested and at the expense of the Assignee, to carry out in good faith the intent and purpose of this assignment, the undersigned will execute all divisional, continuing, substitute, renewal, reissue, and all other patent applications on any and all such improvements; execute all rightful oaths, declarations, assignments, powers of attorney and other papers; communicate to the Assignee all facts known to the undersigned relating to such improvements and the history thereof; and generally do everything possible which the Assignee shall consider desirable for vesting title to such improvements in the Assignee, and for securing, maintaining and enforcing proper patent protection for such improvements;

TO BE BINDING on the heirs, assigns, representatives and successors of the undersigned and extend to the successors, assigns and nominees of the Assignee.

(Signature):

Scott C. Johnson  
Scott C. Johnson

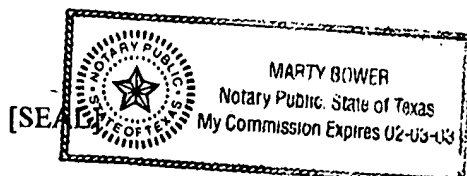
Date:

9-5-2001

State of Texas )

County of Tarrant

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Scott C. Johnson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



Marty Bower  
Notary or Consular Officer

(Signature):

Robert B. Fernander  
Robert B. Fernander

Date:

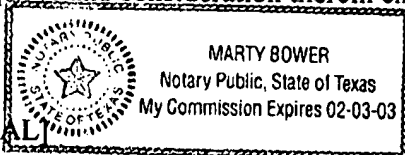
9-5-01

State of Texas )

County of

TRANS)

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Robert B. Fernander, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



[SEAL]

Marty Bower  
Notary or Consular Officer

(Signature):

Neal D. Hartsell  
Neal D. Hartsell

Date:

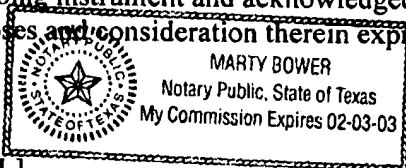
9/5/01

State of Texas )

County of

TRANS)

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Neal D. Hartsell, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



[SEAL]

Marty Bower  
Notary or Consular Officer

(Signature):

Gregory J. Jackson  
Gregory J. Jackson

Date:

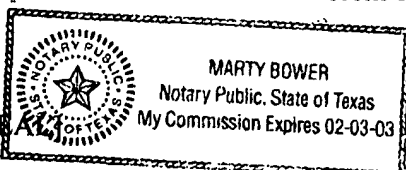
9/5/01

State of Texas )

County of

TRANS)

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Gregory J. Jackson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



[SEAL]

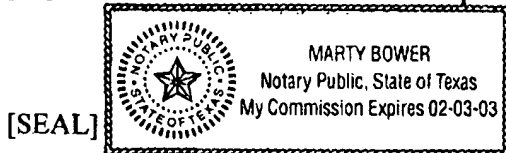
Marty Bower  
Notary or Consular Officer

(Signature): Chaoxin C. Qiu Date: 9/5/2001  
Chaoxin C. Qiu

State of Texas )

County of Travis )

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Chaoxin C. Qiu, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



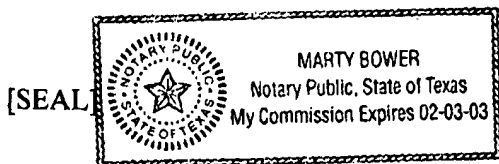
Marty Bower  
Notary or Consular Officer

(Signature): Roger K. Richter Date: 9/5/2001  
Roger K. Richter

State of Texas )

County of Travis )

BEFORE ME, the undersigned authority, on this 5 day of September, 2001, personally appeared Roger K. Richter, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.



Marty Bower  
Notary or Consular Officer